

United States Senate

WASHINGTON, DC 20510-4502

June 29, 2016

The Honorable Denise Turner Roth
Administrator
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

The Honorable Gil Kerlikowske
Commissioner
U.S. Customs & Border Patrol
1300 Pennsylvania Ave. NW
Washington, DC 20229

Dear Administrator Roth and Commissioner Kerlikowske:

Since 2007, I have worked with both of your agencies on plans to upgrade and modernize the Derby Line Land Port of Entry (LPOE). I was proud to work with President Bush to ensure that the General Services Administration (GSA) received \$36 million in funding through the appropriations process to make the needed upgrades at the Derby Line LPOE. Just this spring, GSA announced the last award of \$23 million for construction at Derby Line for the completion of this work. When complete, Derby Line will have an expanded facility that meets their needs of improved efficiency of travel and commerce, and the enhanced safety and security of our CBP workers.

I appreciate the commitment by GSA to award the contract locally, and by doing so, the total project cost came under bid by \$5.8 million. I also understand that GSA would like to reprogram those dollars to the refurbishing of a GSA-owned building with emergency needs in another part of the country. While I fully understand the funding requests are great for government owned facilities and workers around the country, the Derby Line project is yet to be completed. To release these funds from their intended purpose, before completion of the project, would put Vermont at risk.

In addition to my concern on construction overrun costs, I hear regularly from concerned Vermont businesses and local officials that wait times at our border points of entry are impacting business and tourism. Since 2009, across all ports of entry, CBP in Vermont has lost roughly 25 percent of their staff. This has had a dramatic impact on traveler wait times and the ability of CBP to support other needs. Highgate Springs is the busiest border crossing between Vermont and Canada, and has many needs to improve the safe and efficient movement of travelers and commerce. The increased traffic forced on this border with the completion of Canadian Autoroute 35 between Montreal and Highgate is expected to stress the infrastructure on both sides of the border.

The Honorable Denise Turner Roth
Commissioner Kerlikowske
June 29, 2016
Page 2 of 2

Unfortunately, the transportation design and current infrastructure of the port limits the smooth and efficient movement of traffic. I understand that the CBP Field Operations headquarters office has a comprehensive list of the Highgate LPOE's needs. I would respectfully request that CBP provide GSA that list of projects from Highgate Springs LPOE, determine the costs of these items, and utilize the remaining \$5.8 million from the Derby Line LPOE for these needs. Utilizing these funds for CBP needs at a LPOE in Vermont will be keeping in line with the original intent of this funding.

I would be happy to discuss this request further. Please do not hesitate to contact me directly.

Sincerely,



PATRICK LEAHY
United States Senator

*Be glad to talk
with you about this
8/17*

BOB GOODLATTE
6TH DISTRICT, VIRGINIA

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Congress of the United States House of Representatives

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SUBCOMMITTEE ON
COMMODITY EXCHANGES, ENERGY,
AND CREDIT

DEPUTY WHIP

June 10, 2016

The Honorable Denise Turner Roth
Administrator of the General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Administrator Roth:

I appreciate you taking the time to respond to a letter sent by members of the Virginia Congressional Delegation regarding the proposed Federal Civilian Cyber Campus. I am following up with you regarding the possible location of the facility.

You noted in your response that the U.S. General Service Administration (GSA) has not yet identified a location within National Capital Region for the proposed Federal Civilian Cyber Campus. I appreciate GSA's desire to find a location that will be the most cost-effective for American taxpayers. Has GSA explored options in the Mid-Atlantic Region, specifically Page County, Virginia?

Thank you for your attention to my letter and I look forward to hearing from you about this important issue.

Sincerely,

Bob Goodlatte
Member of Congress



Valerie Waldmeier - 6P1RE <valerie.waldmeier@gsa.gov>

Fwd: Fire Issue

1 message

Larnell Exum - S <larnell.exum@gsa.gov>

Tue, Jun 14, 2016 at 3:30 PM

Reply-To: executive-secretariat@gsa.gov

To: Executive Secretariat <executive-secretariat@gsa.gov>, Erin Mewhirter - S <erin.mewhirter@gsa.gov>, Antoinette Reaves - S <toni.reaves@gsa.gov>, Kim Butler - H1E <kim.butler@gsa.gov>

Exec Sec,

Please create a control for the below email. Control to PBS for Lisa Austin's signature.

I've cut and pasted the text from both emails below.

Hillsborough, NJ in Rep. Lance's district recently had a large fire at complex owned by the VA. The VA leases it out for commercial use, but since it is owned by the VA it does not have to comply with local fire codes. The fire was much bigger because its sprinkler system is very outdated.

Local officials and state legislators are asking us why sovereign immunity protects commercial entities from complying with local regulations. I wanted to check to see if GSA has ever looked into costs etc. of making fed. Government comply with local regulations.

A state legislator as well as a few local officials are arguing that whenever federally owned property is leased to commercial enterprises that they should be forced to then comply with local regulations, fire codes etc.

We were wondering if GSA has ever looked into this issue or the costs of making situations like this compliant with the local regulations.

See this article: <http://www.mycentraljersey.com/story/news/local/somerset-county/2016/05/02/hillsborough-warehouse-fire-prompts-call-close-loophole/83825122/>

Regards,

Larnell B. Exum
Executive Response Specialist
Office of Congressional and Intergovernmental Affairs
General Services Administration
Direct [202-969-4100](tel:202-969-4100)

----- Forwarded message -----

From: **Tammy Mayberry - S** <tamara.mayberry@gsa.gov>

Date: Mon, Jun 13, 2016 at 3:21 PM

Subject: Fwd: Fire Issue

To: Larnell Exum - S <larnell.exum@gsa.gov>

Here's some additional information.

Tamara Mayberry
Policy Analyst
Office of Congressional and Intergovernmental Affairs
General Services Administration
1800 F Street, N.W.
Washington, D.C. 20405
[202-357-9506](tel:202-357-9506) - office
tamara.mayberry@gsa.gov

----- Forwarded message -----

From: **McDevitt, Ryan** <Ryan.McDevitt@mail.house.gov>
Date: Mon, Jun 13, 2016 at 3:14 PM
Subject: RE: Fire Issue
To: Tammy Mayberry - S <tamara.mayberry@gsa.gov>

A state legislator as well as a few local officials are arguing that whenever federally owned property is leased to commercial enterprises that they should be forced to then comply with local regulations, fire codes etc.

We were wondering if GSA has ever looked into this issue or the costs of making situations like this compliant with the local regulations.

See this article: <http://www.mycentraljersey.com/story/news/local/somerset-county/2016/05/02/hillsborough-warehouse-fire-prompts-call-close-loophole/83825122/>

From: Tammy Mayberry - S [mailto:tamara.mayberry@gsa.gov]
Sent: Monday, June 13, 2016 3:09 PM
To: McDevitt, Ryan
Subject: Re: Fire Issue

Hi Ryan. We're reviewing this issue, but was wondering if you had any more background information you could share?
-Tammy

Tamara Mayberry
Policy Analyst
Office of Congressional and Intergovernmental Affairs
General Services Administration
1800 F Street, N.W.
Washington, D.C. 20405
[202-357-9506](tel:202-357-9506) - office
tamara.mayberry@gsa.gov

On Fri, Jun 10, 2016 at 11:34 AM, Tammy Mayberry - S <tamara.mayberry@gsa.gov> wrote:

Hi, Ryan. I am in receipt of your email, and am currently researching the issue. I hope to have an answer for you soon. Thanks.

-Tammy Mayberry

Tamara Mayberry

Policy Analyst

Office of Congressional and Intergovernmental Affairs

General Services Administration

1800 F Street, N.W.

Washington, D.C. 20405

[202-357-9506](tel:202-357-9506) - office

tamara.mayberry@gsa.gov

----- Forwarded message -----

From: **McDevitt, Ryan** <Ryan.McDevitt@mail.house.gov>

Date: Wed, Jun 8, 2016 at 1:26 PM

Subject: Fire Issue

To: "gsacongressionalaffairs@gsa.gov" <gsacongressionalaffairs@gsa.gov>

Hello,

Hillsborough, NJ in Rep. Lance's district recently had a large fire at complex owned by the VA. The VA leases it out for commercial use, but since it is owned by the VA it does not have to comply with local fire codes. The fire was much bigger because its sprinkler system is very outdated.

Local officials and state legislators are asking us why sovereign immunity protects commercial entities from complying with local regulations. I wanted to check to see if GSA has ever looked into costs etc. of making fed. Government comply with local regulations.

Thanks for your help,

Ryan

Ryan McDevitt

Legislative Aide

Office of Congressman Leonard Lance (NJ-07)

[\(202\) 225-5361](tel:202-225-5361)

United States Senate

WASHINGTON, DC 20510-4305

June 24, 2016

The Honorable Denise Turner Roth
Administrator
General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Administrator Roth:

I write to you today to urge the General Services Administration (GSA) to work with the Alamo Endowment Board on efforts to better acknowledge the historical significance of the Alamo Complex.

As you may know, last July, San Antonio's five Spanish colonial missions, including the Alamo, were designated as World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO), the first such designation for a historic site in Texas and one of only 23 designated sites in the United States. To build on this achievement, state and local leaders have cooperated on further improvements to the Alamo Complex and other historic missions for the benefit of the San Antonio community, as well as visitors from across the world.

Last year, the City of San Antonio, the Texas General Land Office, and the non-profit Alamo Endowment Board entered into a cooperative agreement to develop a joint master plan that envisions a major redevelopment of the Alamo Complex. Ultimately, a fully implemented master plan will provide residents and visitors with a new, more comprehensive perspective on the Alamo site, from the time of its 18th century inception, to the famous 1836 conflict with Mexico during the Texas Revolution, and beyond.

Developing and implementing an Alamo Complex master plan requires close coordination with stakeholders throughout the historic sites, including GSA and federal tenants served by your agency. The Hipolito Garcia Federal Building and Courthouse, which houses the U.S. Bankruptcy Court for the Western District of Texas as well as executive agencies and the U.S. Post Office, sits within the recognized footprint of the original Spanish mission. The Courthouse is believed to occupy the location where Col. William Barrett Travis died during the Battle of the Alamo.

I would ask that you give ever due consideration to proposals from the Alamo Endowment Board and other involved parties to more effectively recognize historic sites throughout the Alamo Complex. GSA should work with state and local leaders to determine how to more appropriately recognize the historical significance of the Courthouse location into master planning

efforts. Toward that end, please provide me with information on what it would take for GSA to be able to accommodate the utilization of space within the Courthouse to honor the site's role in Texas history, including what physical or security measures would have to be imposed to meet the needs of both federal tenants and the historic Alamo Complex.

I look forward to a thorough response on how your agency intends to be a constructive partner with the Alamo Endowment Board, the San Antonio community, and the State of Texas.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "John Cornyn". The signature is stylized with a large "J" and a cursive "Cornyn".

JOHN CORNYN
United States Senator

CAROLYN B. MALONEY
12TH DISTRICT, NEW YORK

2308 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3212
(202) 225-7944

COMMITTEES:
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GOVERNMENT REFORM

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Congress of the United States
House of Representatives
Washington, DC 20515-3212

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WEBSITE: maloney.house.gov
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May 12, 2016

Ms. Denise Turner Roth
Administrator
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Administrator Roth:

As you know, on March 4, 2015 the General Services Administration (GSA) proposed a rule to eliminate the price reduction clause requirement in federal contracts¹, which has historically been a tool to keep costs to the taxpayer for government-contracted services at levels comparable to the commercial market. I understand that this proposed change is part of a larger goal to collect more extensive transactional data from contractors. However, I am concerned that this policy shift could make the federal government vulnerable to being overcharged for services whose costs have decreased in the commercial market over the life of a long-term contract.

In light of the huge amount of procurement contracts the U.S. government enters into, which totaled \$445.3 billion in FY2014², it is imperative that the Schedules Program is properly overseen, both before awarding a contract and during the life of the contract. A change in procurement policy of this nature should be made after a study of its impact and a thorough cost-benefit analysis. I respectfully ask that GSA justify its proposal by providing responses to the following questions:

1. What is the anticipated financial benefit to the government if the proposal is implemented? What is this savings estimate based upon?
2. How would the transactional data disclosure requirement improve the transparency of government contracts and the delivery of services to the federal government?
3. Is the removal of the Price Reductions clause from GSA contracts necessary to capture the transactional data? Are the two requirements mutually exclusive?
4. The proposed change will maintain the Economic Price Adjustment clause that allows government prices to increase if contractor costs increase; however, it will eliminate the

¹ GSAR Case 2013-G504

² CRS In Focus IF10265 *Congressional Oversight of Procurement Activities: Contract Law Concepts* by Brandon J. Murrill, July 23, 2015

government price protections provided by the Price Reductions clause. What is the reason for this inconsistency? How will GSA ensure that the government will not be overcharged for goods and services? What price protections will be in place?

5. Can GSA collect the transactional data from currently available government systems? If not, why not?
6. Will GSA's proposal limit transactional data analysis to prices paid by government customers using GSA contracts? How will GSA obtain and monitor commercial pricing information to achieve best value? Will the government still benefit from price decreases in the commercial market? If so, how?

The American people must be able to trust that their government is a good steward of their tax dollars. I strongly urge you to prioritize transparency and ensure that the costs to the government for contracted services are properly monitored and controlled when making policy decisions. I look forward to reviewing your responses to these questions. Thank you for your work and attention to this critical issue.

Sincerely,



CAROLYN B. MALONEY
Member of Congress

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA
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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
GABRIELLE A. BATKIN, MINORITY STAFF DIRECTOR

May 20, 2016

The Honorable Jeh C. Johnson
Secretary
U.S. Department of Homeland Security
Washington, DC 20528-0150

The Honorable Denise Turner Roth
Administrator
U.S. General Services Administration
1275 First Street, N.E.
Washington, DC 20417

Dear Secretary Johnson and Administrator Roth:

Let me begin by thanking you both for your leadership and continued support for the ongoing Department of Homeland Security (“DHS” or “the Department”) headquarters consolidation project at St. Elizabeths. Like you, I firmly believe that a unified headquarters for the Department will improve mission effectiveness, management, and morale, and also save the taxpayer money for years to come. In light of the ongoing appropriations process and recent developments in law, I write today to request an update on this important project.

As you may know, the President recently signed into law S. 1638, the Department of Homeland Security Headquarters Consolidation Act,¹ which requires DHS and the General Services Administration (GSA) to, among other things, provide a report on the implementation of the “Enhanced Consolidation Plan” for the St. Elizabeths project. This plan will reduce the total cost of the project by 20 percent, from an original total cost of \$4.5 billion to \$3.6 billion. It does this, in part, by moving more employees to St. Elizabeths than originally planned and by reducing the footprint of the campus. With faithful implementation of the Enhanced Plan, it is estimated that taxpayers could save \$1.2 billion over the next 30 years. Given the fiscal constraints we face as a country, I believe it is imperative that we implement the Enhanced Plan to the maximum extent practicable.

To better understand the Enhanced Consolidation Plan and other ongoing developments related to St. Elizabeths, I respectfully request that each of you provide an update on the following questions within your agency’s purview by no later than June 10, 2016:

¹ P.L. 114-150.

1. In Fiscal Year 2015, Congress provided GSA \$144 million to extend the Access Road and reconstruct the I-295/Malcolm X Boulevard Interchange. It is critical that these infrastructure changes are completed on time in order to support occupancy of the Center Building in late Fiscal Year 2018. In particular, the Access Road must be completed to accommodate the commuter buses. Please provide a detailed schedule for this portion of the project, including when the Access Road extension and Interchange reconstruction will each be completed. (GSA)
2. Please provide an update on each budget item funded in the Fiscal Year 2016 Consolidated Appropriations Act, including the \$215 million appropriated to DHS for development, operational support costs, and optimization of the Munro Building and the \$341 million appropriated to GSA for the Center Building Complex, perimeter security, final construction of the access road and interchange, and rehabilitation of existing buildings. (GSA and DHS)
3. If Congress does not provide full funding in Fiscal Year 2017 to both DHS and GSA for each agency's responsibilities under the Enhanced Plan, how would the proposed timeline and total cost of the project change? (GSA and DHS)
4. The Enhanced Plan proposed adding 3,000 employees to the St. Elizabeths campus by leveraging telework and other mobile work policies to reduce construction and rent costs. This would improve the utilization of space from the originally planned 230 square feet per person to 155 square feet per person. Please provide an update on the Enhanced Plan, including responses to the following:
 - a. Is the project still on schedule to be completed in 2021? (GSA and DHS)
 - b. How many employees have moved to the campus to date and how many are scheduled to move there in each of the next five fiscal years? (DHS)
 - c. Please provide a breakdown of the St. Elizabeths Enhanced Plan occupancy schedule by component including the number of employees, building location, and the estimated timeline by quarter. (DHS)
 - d. The Enhanced Plan indicated that 1400 additional staff would be moving into the Munro Building. What is the status of the reconfiguration of the Munro Building, including the relocation of U.S. Coast Guard Ballston personnel and additional DHS headquarters personnel? (DHS)
 - e. Please provide details on the savings assumed in the Enhanced Plan versus the status quo, including the reduced cost of the overall project by \$800 million and the estimated 30 year net present value savings to DHS of \$1.2 billion. (DHS)
 - f. Please identify which DHS components will be located at the Nebraska Avenue Complex (NAC) under the Enhanced Plan. In the initial plan, the NAC was to be maintained as a high security campus. Is this still the plan or has it changed? (DHS)

The Honorable Jeh C. Johnson
The Honorable Denise Turner Roth
May 20, 2016
Page 3

Thank you for your continued attention to the construction of this important facility. If you or members of your staffs have any questions about this request, please ask them to contact Stephen Vina (202-224-5173), Chief Counsel for Homeland Security on my Committee staff.

With best personal regards, I am

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Tom", with a stylized flourish at the end.

Thomas R. Carper
Ranking Member

cc: The Honorable Ron Johnson
Chairman

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

May 2, 2017

Timothy O. Horne
Acting Administrator
General Services Administration
1800 F Street, NW
Washington, D.C. 20405

Dear Mr. Horne,

On March 1, 2017, I wrote to Secretary of Defense James Mattis to request information regarding plans by the Department of Defense to lease office space in Trump Tower for military operations supporting President Trump.¹ As the *New York Times* has noted, such an arrangement would raise “questions about a potential conflict of interest because taxpayer dollars could be going directly to [President Trump’s] business interests.”² In response, the Department provided the enclosed letter, stating that it has sought to lease privately-owned residential space in Trump Tower—as opposed to commercial office space—and that “lease negotiations have been with the owner’s representatives only. We are not aware of any means through which the President would personally benefit from a Government lease of this space.”³ The Department further stated that “[t]he lease in question is being negotiated and acquired by the General Services Administration.”⁴

While this response potentially addresses worries that President Trump and the Trump Organization might directly benefit “from charging the Department of Defense to do its job,”⁵ it raises other serious concerns related to a private residence housing officials and equipment from the White House Military Office. Specifically, public reporting on certain residents of Trump Tower suggests their possible involvement—through the use of their property—in Department operations could pose potential security risks. For example, Paul Manafort, a former campaign

¹ Letter from Sen. Claire McCaskill to Secretary James Mattis (March 1, 2017).

² *Pentagon Considers Leasing Space at Trump Tower*, New York Times (Feb. 8, 2017).

³ Letter from Acting Under Secretary of Defense James A. MacStravic to Sen. Claire McCaskill (March 22, 2017).

⁴ *Id.*

⁵ *Defense Department Renting at Trump Tower is Another Step into Ethical Murk*, NPR (Feb. 9, 2017).

chairman to President Trump reportedly under U.S. counterintelligence scrutiny,⁶ owns a condo unit on the 43rd floor.⁷ Law enforcement agencies have also charged other current owners of Trump Tower units with racketeering, bribery, and bank fraud.⁸ Lax vetting has also previously made Trump Tower an attractive residence or investment for foreigners with concerning ties, including alleged Russian mobster David Bogatin and a representative of former Haitian dictator Jean-Claude Duvalier.⁹ As President Trump wrote in *The Art of the Deal*, foreign purchasers of Trump Tower units need not worry about “the scrutiny of a bunch of prying strangers.”¹⁰

In its March 22, 2017, response, the Department also noted that “the mission requirement for close proximity to the President’s residence drives the location and price for this acquisition.”¹¹ Yet the owners of apartments within close proximity to President Trump’s triplex unit raise additional concerns. According to *Bloomberg*, for example, the duplex immediately below President Trump’s unit “now belongs to a construction company that admitted last year to defrauding New York clients.”¹² As a May 2015 Department of Justice press release explained, Hunter Roberts Construction Group, LLC “defrauded its clients”—including government contracting and funding agencies—“by fraudulently billing them for work that was not performed and at rates that were higher than contracted.”¹³ The next-closest apartment to President Trump on the 63rd floor, according to ABC News, was the target of a two-year FBI operation ending in 2013 “to eavesdrop on a sophisticated Russian organized crime money-laundering network.”¹⁴ A federal grand jury later indicted more than 30 individuals in

⁶ *Intercepted Russian Communications Part of Inquiry Into Trump Associates*, New York Times (Jan. 19, 2017) (online at <https://www.nytimes.com/2017/01/19/us/politics/trump-russia-associates-investigation.html>).

⁷ *Inside Trump Tower: The Skyscraper Where Trump is Already King*, Bloomberg (Oct. 25, 2016) (online at <https://www.bloomberg.com/features/2016-trump-tower/>).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Letter from Acting Under Secretary of Defense James A. MacStravic to Sen. Claire McCaskill (March 22, 2017).

¹² *Inside Trump Tower: The Skyscraper Where Trump is Already King*, Bloomberg (Oct. 25, 2016).

¹³ Department of Justice, *Hunter Roberts Construction To Pay More Than \$7 Million In Penalties And Restitution For Engaging In A Fraudulent Overbilling Scheme* (May 20, 2015) (online at <https://www.justice.gov/usao-edny/pr/hunter-roberts-construction-pay-more-7-million-penalties-and-restitution-engaging>).

¹⁴ *Russian Mafia Boss Still at Large After FBI Wiretap at Trump Tower*, ABC News (March 21, 2017) (online at <http://abcnews.go.com/US/story-fbi-wiretap-russians-trump-tower/story?id=46266198>).

connection with the investigation.¹⁵ The family of one of the top individuals associated with the criminal network—Vadim Trinchin—reportedly still owns unit 63A.¹⁶

Relatedly, a recent report by the Government Accountability Office (GAO) found that foreign governments own numerous high-security facilities leased by federal agencies, which are often unaware of this ownership and thus unable to mitigate potential security risks. GAO has recommended that the General Services Administration (GSA) determine the ownership of leased high-security space and alert tenant agencies of foreign ownership to allow them to address any security risk.¹⁷

To address concerns arising from the potential leasing of privately-owned residential space in Trump Tower for Department of Defense operations, please answer the following requests for information:

1. Please identify the unit in Trump Tower under consideration for leasing by the Department of Defense, as well as the owner or owners of the unit;
2. Please provide an estimate of the annual cost of leasing the unit under consideration, as well as an estimate of any costs to renovate or otherwise modify the unit to meet Department of Defense requirements;
3. Please provide any contracts or other agreements the Department of Defense or GSA have concluded with the owner or manager of the unit under consideration, as well as any contracts or agreements to renovate or otherwise modify the unit;
4. The Department of Defense has noted that, with regard to property inside Trump Tower, “our analysis indicates that renting is cheaper than purchase.”¹⁸ Please provide any analysis GSA has conducted or received regarding the relative merits of renting or purchasing Trump Tower property;
5. Please describe any vetting procedures GSA has instituted concerning the owner—whether an individual or a company—of the unit under consideration;
6. Please describe any criteria GSA has used for determining the suitability of property inside Trump Tower for leasing given the security needs of the Department of Defense;

¹⁵ *Id.*

¹⁶ *Inside Trump Tower: The Skyscraper Where Trump is Already King*, Bloomberg (Oct. 25, 2016).

¹⁷ Government Accountability Office, *GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners* (Jan. 3, 2017) (GAO-17-195).

¹⁸ Letter from Acting Under Secretary of Defense James A. MacStravic to Sen. Claire McCaskill (March 22, 2017).

7. Please provide any communications between GSA and the Department of Defense, and between GSA and the owner or manager of the unit under consideration, regarding security risk mitigation prior to the Department occupying the unit.

Please provide your responses as soon as possible, but in no event later than May 23, 2017. If you have any questions related to this request, please contact Brandon Reavis of the Committee staff at Brandon_Reavis@hsgac.senate.gov or (202) 224-2627. Please send any official correspondence relating to this request to Amanda_Trosen@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

Enclosure

cc: Ron Johnson
Chairman



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

MAR 22 2017

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Senator McCaskill:

This is in response to your March 1, 2017, letter to the Secretary of Defense regarding press reports that the Department of Defense (DoD) is planning to acquire leased space in Trump Tower, New York City, New York. I am responding on the Secretary's behalf.

There is an effort to acquire leased space in Trump Tower. To alleviate your principal concern (i.e., that the President of the United States might financially benefit from the lease effort), please know that this residential space is privately owned and that lease negotiations have been with the owner's representatives only. We are not aware of any means through which the President would personally benefit from a Government lease of this space.

My office has policy making and oversight responsibilities for the Department's real property matters, including the acquisition of real property by DoD Components. According to current and longstanding DoD policy (DoD Instruction 4165.71), any acquisition of leased space with an annual rental in excess of \$1 million must first be approved by my office.

The White House Military Office (WHMO), a DoD Component that performs a variety of *missions for the White House*, requested approval to lease space in Trump Tower for personnel assigned to support the President when at his private residence. This is typical of support provided by WHMO to past Presidents and Vice Presidents at their private residences.

The lease in question is being negotiated and acquired by the General Services Administration, as is standard practice. Regarding alternatives, the mission requirement for close proximity to the President's residence drives the location and price for this acquisition. Additionally, our analysis indicates that renting is cheaper than purchase.

I approved this action after consulting with the Director of WHMO, the Office of the Under Secretary of Defense (Comptroller), and the DoD Office of General Counsel. I trust this information is helpful. Thank you for your continued support.

Sincerely,

James A. MacStravic
Performing the Duties of the
Under Secretary of Defense
for Acquisition, Technology,
and Logistics

cc: The Honorable Ron Johnson
Chairman

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
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KIRSTEN GILLIBRAND, NEW YORK
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EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

May 9, 2017

Timothy Horne
Acting Administrator
General Services Administration
1800 F St. NW
Washington, DC 20405

Dear Acting Administrator Horne:

I am writing about the enclosed April 25, 2017 letter, which requests that the Senate Environment and Public Works (EPW) Committee review and investigate the General Services Administration's (GSA) determination that the Trump Old Post Office LLC is in full compliance with Section 37.19 of its Ground Lease with GSA.

On March 23, 2017, GSA's Contracting Officer with warrant authority for the Old Post Office Ground Lease issued a determination, which stated:

"Based on my review of the Lease, discussions with the Tenant, and documents submitted by Tenant, I have determined that Tenant is in full compliance with Section 37.19 and, accordingly, the Lease is valid and in full force and effect."

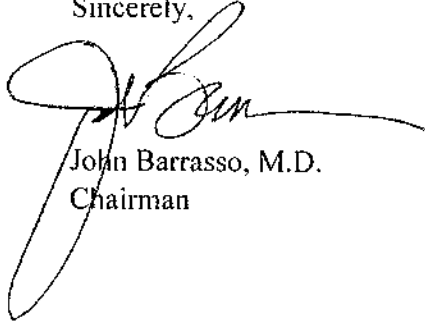
Shortly afterward, the EPW Committee requested a bipartisan briefing from GSA to discuss the process that GSA's Contracting Officer used to make his final compliance determination. On March 31, 2017, senior GSA officials provided a briefing to and addressed a number of questions from the Committee's Majority and Minority staff.

To assist the Committee in its oversight of GSA's Out-Leasing process, I ask that GSA address the following questions:

1. Was any of the information described in the enclosed April 25th letter unavailable or unknown to the agency's Contracting Officer at the time of his review and compliance determination?
 - A. If any information was unavailable or unknown to the Contracting Officer, does GSA deem the new information to be material to the Contracting Officer's March 23rd compliance determination?
 - B. If any of the new information is material, what steps is GSA taking in response to such new, material information?

Thank you for your attention to this matter. I respectfully request to receive answers to these questions no later than May 23, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Barrasso', with a large, stylized initial 'J' and a long horizontal flourish extending to the right.

John Barrasso, M.D.
Chairman

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
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MARGARET WOOD HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

May 11, 2017

Timothy O. Horne
Acting Administrator
General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Acting Administrator Horne:

A recent report from the Government Accountability Office (GAO) raises concerns about the General Services Administration's (GSA) policy for assessing and leasing high-security space in foreign-owned buildings. According to GAO, federal buildings are vulnerable to threats from foreign sources that can target the building's information systems and jeopardize the physical safety of the occupants.¹ We write today to request information regarding GSA's plans to implement GAO's recommendation for addressing these concerns.

Ownership of a property provides access to not only the buildings, but also to their critical infrastructure systems, such as heating, ventilation, surveillance, and electronic card readers. This level of access can present serious security risks including espionage, unauthorized cyber and physical access to a facility, and sabotage.² According to GAO, GSA leases high-security space in 20 buildings from foreign owners to 26 tenant federal agencies, including the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA).³ In some cases, these high-security spaces house classified operations and store sensitive law enforcement evidence.

According to GAO, as of March 2016, GSA was unable to identify ownership information for approximately one-third of its 1,406 high-security leases because ownership information was not readily available for all properties.⁴ While GSA is required to analyze and address risks associated with their high-security facilities, according to GAO, GSA does not inform tenants when they are leasing space from foreign owners. When federal agencies occupying space are unaware that the space is foreign-owned, these agencies are unable to properly evaluate security risks and take appropriate security precautions.

Although GAO noted that GSA is committed to addressing these concerns and implementing the report's recommendation, Congress has a responsibility to ensure that GSA achieves its mission while also making tenants aware of the security risks associated with leases

¹ *GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners*, GOVERNMENT ACCOUNTABILITY OFFICE (Jan. 2017).

² *See also, DHS and GSA Should Address Cyber Risk to Building and Access Control Systems*, GOVERNMENT ACCOUNTABILITY OFFICE (Dec. 2014).

³ *GSA Should Inform Tenant Agencies When Leasing High-Security Space from Foreign Owners*, GOVERNMENT ACCOUNTABILITY OFFICE (Jan. 2017).

⁴ *Id.*

subject to foreign ownership. To better understand how GSA plans to implement these recommendations, we request GSA provide responses to the following by May 25, 2017:

1. GAO recommends that GSA determine whether a foreign entity is the ultimate owner of high-security space leased by GSA, and, if so, to share that information with the tenant agencies so they can adequately assess and mitigate any security risk. Please provide information demonstrating how GSA is complying with this recommendation.
2. Please provide the number of GSA leases with foreign entity ownership and list the agencies with leases in these buildings.
3. Please identify any federal agencies that have received notice of potential security risks associated with leasing space in a building owned by a foreign entity.
4. What steps do GSA and other federal agencies take to mitigate security concerns posed by high-security space leased in foreign-owned buildings? Are there best practices used by agencies, such as the FBI or DEA? If so, is this information shared across the federal government?
5. What guidance does GSA provide to agencies with independent statutory leasing authority regarding leasing space from foreign entities? Please provide a copy of any such guidance.

Please contact Stephanie Hall (Senator Portman) at 202-224-3721 or Stephanie_Hall@hsgac.senate.gov, Roberto Berrios (Senator Carper) at 202-224-3721 or Roberto_Berrios@hsgac.senate.gov, or Donald Sherman (Senator McCaskill) at 202-224-2627 or Donald_Sherman@hsgac.senate.gov. Thank you for your attention to this request.

Sincerely,



Rob Portman
Chairman
Permanent Subcommittee on Investigations



Tom Carper
Ranking Member
Permanent Subcommittee on Investigations



Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs

cc: The Honorable Carol Fortine Ochoa
Inspector General
General Services Administration

United States Senate

WASHINGTON, DC 20510

120 HUYSHOPE AVENUE
SUITE 401
HARTFORD, CT 06106
(860) 549-8463

<http://murphy.senate.gov>

January 23, 2017

The Honorable Donald Trump
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President,

I was heartened by your statement in your inaugural speech that your administration “would follow two simple rules: Buy American and Hire American.” As a founder of the Buy American Caucus in the House of Representatives, I have worked hard since arriving in Congress to push the federal government to follow those rules. There are a number of initiatives—many of which you could put into place at the outset of your administration—that can reform and bolster our federal Buy American purchasing policies to ensure that more taxpayer dollars are spent here at home.

As you likely know, the Buy American laws enacted by Congress have, over the years, been eroded by loopholes, exceptions, and outright fraud. My office has found, for example, that the Department of Defense (DoD), the largest purchaser of manufactured goods in the world, has spent almost \$200 billion on manufactured goods made by foreign companies in the last decade through the use of hundreds of thousands of waivers of the Buy American Act and other government purchasing laws. Even more troubling, the DoD Inspector General found during an audit a significant level of non-compliance with existing Buy American policies among DoD contracting personnel. This non-compliance coupled with the flood of legally permissible waivers means billions of taxpayer dollars are being used to purchase items manufactured by foreign firms.

While DoD is the largest government purchaser, the entire federal government could enhance its commitment to the growth of American manufacturing and the U.S. economy by instituting stronger Buy American policies. The Economic Policy Institute estimated that simply enacting my *21st Century Buy American Act* would create 100,000 additional jobs due to the ripple effect that increased domestic spending on manufactured goods has on local communities. I have seen first-hand in my state of Connecticut the impact our high-quality manufacturers have, as those jobs in turn fuel spending throughout the economy. Making it easier for U.S. manufacturing companies to compete for federal procurement contracts is critical to helping those businesses thrive and maintaining our industrial base.

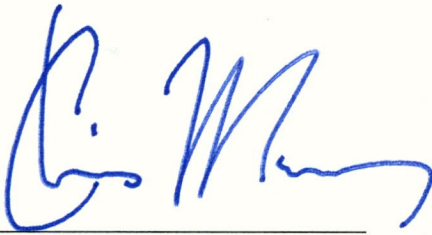
Given your commitment to ensuring that taxpayer dollars buy American-made goods and hire American workers, I urge you to consider the following actions as soon as possible:

- 1) Appoint a government-wide overseer of domestic purchasing policy. Aside from the Buy American Act of 1933, there are various other statutes that govern the purchase of manufactured goods by the federal government. These include the Berry Amendment and the Department of Transportation's grant funding (referred to as "Buy America"), as well as the Clean Water State Revolving Funds and Drinking Water State Revolving Funds. Additionally, according to the Congressional Research Service, there are almost 40 other statutory "Buy American" requirements that touch almost every federal agency. Given the extreme complexity of purchasing regulations and the history of noncompliance by contracting officers, this massive area of policy needs a senior leader dedicated to enforcing existing law and strengthening its practical effect.
- 2) Conduct a government-wide audit of purchases that are subject to domestic content requirements. As the DoD Inspector General found when it audited a small number of purchases, there was widespread non-compliance with Buy American rules among civilian contracting personnel. This non-compliance is likely due more to the web of confusing requirements than malicious intent, and a broader audit could help spread information about appropriate practice and highlight problem areas. Last year, the Senate Committee on Appropriations passed the FY2017 Transportation, Housing and Urban Development appropriations bill, which included my provision to audit the Federal Aviation Administration. There is clearly bipartisan agreement that "Buy American" audits are necessary in agencies that purchase a significant amount of manufactured goods, and your administration could take this step without waiting for legislation.
- 3) Require a "Jobs Impact Assessment" on large purchasing contracts. When federal contracting personnel are deciding between multiple bids for a project or purchase, one of the factors going into that decision should be how many U.S. jobs would be created. If Company X can build a widget for the same price as Company Y, but also would source the work in Connecticut or Ohio instead of Mexico or Vietnam and create more jobs here at home, the decision should be obvious—but right now, the federal government doesn't even have this kind of information. Requiring a Jobs Impact Assessment for large purchasing contracts, as my *American Jobs Matter Act* would do for certain Defense contracts, would give a boost to companies with the strongest commitment to "Made in America."
- 4) Require contracting personnel to do an exhaustive search for domestic suppliers before approving Buy American waiver requests. Contractors or agencies sometimes seek waivers from Buy American requirements, claiming that the product is not available domestically, because that can be easier than taking the extra step to search for qualified domestic producers. But just because it sometimes might be easier doesn't mean it's right. Before seeking a waiver for non-availability, federal purchasers should be required to conduct a thorough survey of the domestic market for the item in question, and contracting personnel should reject preemptive waivers from Buy American laws.
- 5) Create a centralized government website that lists all Buy American waivers from every agency. U.S. manufacturers often don't even know when the federal government has decided to award a contract to a foreign company instead of a domestic one. Creating a

government-wide "BuyAmerican.gov" site (instead of leaving it up to each individual agency) would give American manufacturers a one-stop shop to identify items that the government thinks are non-available, so that they could then fulfill the order domestically. I've heard this complaint often from manufacturers in Connecticut: items proclaimed to be non-available, and thus legally allowed to be purchased overseas, are actually already made by domestic manufacturers. Your administration should create a platform that makes it easy for American companies to fulfill the needs of our federal agencies.

I look forward to working with you on strengthening American manufacturing through reforms of our federal purchasing process. It's clear that our current system is overly complex and is not doing enough to support our domestic manufacturing base. Business owners and their employees expect that taxpayer dollars will prioritize domestically manufactured goods, and I believe the proposals laid out above present an opportunity to fulfill your campaign commitment to do so, and to help grow jobs in the United States. Thank you for your consideration, and I look forward to hearing from you.

Sincerely,



Christopher S. Murphy
United States Senator

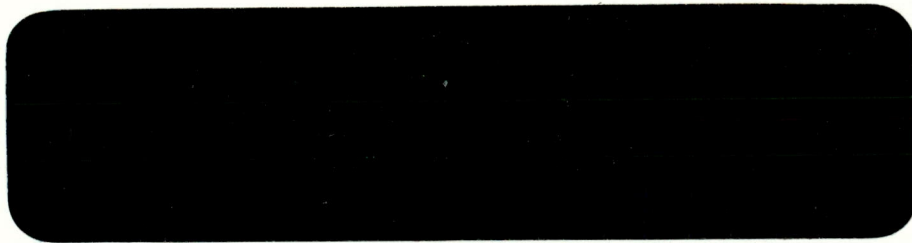
United States Senate

WASHINGTON, DC 20510-0705

OFFICIAL BUSINESS

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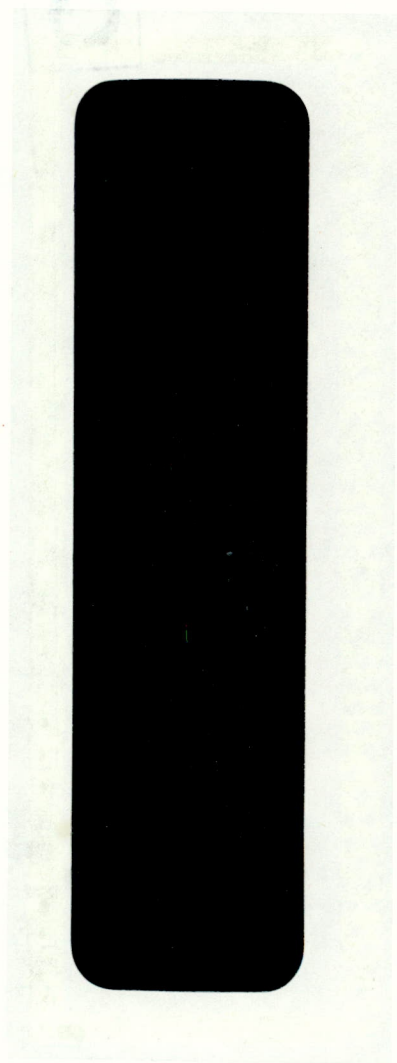
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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

June 26, 2017

Tim Horne
Acting Administrator
General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Mr. Horne:

I am writing to request information regarding the General Services Administration's (GSA) efforts to identify and reduce improper payments.

On May 4, 2017, the GSA Office of the Inspector General (OIG) issued an audit report assessing the agency's compliance with the Improper Payments Acts - the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, and the Improper Payments Elimination and Recovery Improvement Act of 2012. GSA OIG's audit found that GSA "did not comply with the Improper Payment Acts" in Fiscal Year (FY) 2016. Although, GSA OIG found that the agency complied with five of the six requirements of the Improper Payment Acts, GSA "did not meet its improper payment reduction target for the Rental of Space Program, causing it to be in noncompliance with the Acts."¹

GSA OIG also found that GSA's Office of the Chief Financial Officer's (OCFO) failed to make fully accurate and complete reports and evaluations of improper payments. GSA OIG's report concluded that GSA's OCFO lacked adequate internal controls over reporting improper payments, which led the agency's FY 2016 annual financial report to be published with numerous errors related to improper payments. GSA OIG found that the agency's OCFO was also unsuccessful in identifying ineffective controls through its continuous monitoring of vendor payments and failed to sufficiently "implement its corrective action related to its FY 2015 improper payments risk assessment."²

The Inspector General's report made several recommendations to GSA that the agency is currently working to implement. Based on its finding that GSA failed to meet its FY 2016 reduction target for the Rental of Space Program, GSA OIG recommended that the GSA OCFO submit a plan for addressing noncompliance within 90 days, as required by OMB guidance,

¹ U.S. General Services Administration Office of the Inspector General, *GSA Did Not Comply with the Improper Payments Acts in FY 2016* (May 4, 2017) (Report Number A160141/B/5/F17001).

² *Id.*

submit corrected improper payments information to OMB, and improve Rental of Space improper payments testing processes to ensure OCFO reaches correct improper payments determinations. In order to address GSA's reporting errors related to improper payments, GSA OIG recommended that the agency's OCFO provide detailed training on how to complete the Agency Financial Report (AFR) tables, implement controls, including additional review and independent verification, to prevent and detect future misstatements in improper payment reporting, and customize reporting to convey meaningful information tailored to GSA operations. GSA OIG also recommended that GSA's OCFO implement controls to verify continuous monitoring processes and to use the results of continuous monitoring to identify and improve ineffective controls. Finally, GSA OIG recommended that GSA's OCFO develop a detailed methodology for conducting improper payment risk assessments that includes an evaluation of all GSA programs.³

GSA concurred with all of GSA OIG's recommendations for improving compliance with the Improper Payments Acts. GSA indicated that "corrective action is underway" to make improvements in the agency's processes and controls related to improper payments that were identified by the OIG. GSA indicates that it has conducted an evaluation of the agency's improper payments reporting in the AFR to ensure the quality and value for the information provided. GSA has also taken steps to implement controls including initial review and verification to prevent and detect future misstatements in improper payment reporting. GSA is also evaluating skillsets expertise and resources assigned to testing rental of space payments, utilizing improper payments to identify opportunities to reduce improper payments and to ensure future years' target goals are reasonable and achievable. Since 2013, GSA OIG has consistently found that GSA has failed to fully comply with the Improper Payments Acts. While I am encouraged that GSA has agreed to implement all of the Inspector General's recommendations, the agency qualified that response by noting that these remedial actions "will be implemented as feasible."⁴

In order to better understand the General Services Administration's current efforts and going forward plans to reduce improper payments, please provide the following information to my office on or before July 10, 2017:

1. An update on the status of GSA's implementation of GSA OIG's recommendations found in its May 4, 2017 audit report entitled, *GSA Did Not Comply with the Improper Payments Acts in FY 2016*, including an outline of all closed and outstanding recommendations;
2. A list of any and all outstanding Inspector General recommendations related to GSA's compliance with the Improper Payment Acts in FY 2011 through 2016, and a timeline for when GSA expects to close these outstanding recommendations;

³ *Id.*

⁴ *Id.*

3. What factors you anticipate may impact the “feasibility” of implementing any and all outstanding Inspector General recommendations related to GSA’s compliance with the Improper Payment Acts, and what steps GSA will take to mitigate any such feasibility concerns;
4. What additional steps GSA has taken to improve the agency’s oversight of improper payments; and
5. An explanation of how the President’s proposed budget for GSA will impact the agency’s ability to close any outstanding Inspector General recommendations related to GSA’s compliance with the Improper Payment Acts.

If you have any questions regarding this inquiry, please contact Donald Sherman on my staff at Donald_Sherman@hsgac.senate.gov or by phone at (202) 224-2627. Please send any official correspondence relating to this request to Amanda_Trosen@hsgac.senate.gov. Thank you in advance for your prompt attention to this request. I look forward to your response.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman

JOHN MCCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
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HEIDI HEITKAMP, NORTH DAKOTA
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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

June 22, 2017

Timothy O. Horne
Acting Administrator
General Services Administration
1800 F Street, NW
Washington, D.C. 20405

Dear Mr. Horne:

I am writing to request information regarding the General Services Administration's (GSA) oversight of the federal government's lease agreement with the Trump Old Post Office, LLC to develop and manage the Old Post Office Building in Washington, D.C.

In 2013, GSA negotiated a lease agreement with Trump Old Post Office, LLC—a private company owned by now-President Donald Trump and his adult children. Under the terms of this agreement, the Trump Organization committed significant funds to transform the Old Post Office Building into a luxury hotel, and in return received the exclusive rights to run the hotel and retain all profits for a period of at least 60 years. The lease agreement includes a clause that prohibits elected officials from being party to the agreement in order to prevent favoritism or preferential treatment to federal officials. The lease states:

No...elected official of the Government of the United States...shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom; provided, however, that this provision shall not be construed as extending to any Person who may be a shareholder or other beneficial owner of any publicly held corporation or other entity, if this Lease is for the general benefit of such corporation or other entity.¹

Following Donald Trump's election as the 45th President of the United States, various Members of Congress and ethics watchdogs raised concerns about the legality of the Trump Organization's lease with the federal government for the Old Post Office space and how GSA would manage a lease in which the President and his family are beneficiaries. According to a report by the Washington Post, former GSA Administrator Denise Turner Roth indicated that between Election Day and the inauguration, "she and GSA lawyers asked for more information from the Trump Organization about who would oversee the project and how the president's stake would be managed," but that information that did not entirely arrive before her term ended.²

¹ U.S. General Services Administration, Lease Number GS-LS-116-1307, Section 37.19 (OPO Lease).

² *The Official Who Let Trump Keep his Government Hotel Deal Explains Herself*, Washington Post (May 25, 2017) (www.washingtonpost.com/politics/the-official-who-let-trump-

On March 23, 2017, GSA provided a letter to the Trump Organization stating that its lease for the Trump International Hotel was “valid.”³ The letter, authored by the GSA hotel project contracting officer, who is not an attorney, states: “Based on my review of the Lease, discussions with Tenant, and documents submitted by Tenant, I have determined that Tenant is in full compliance with Section 37.19 and, accordingly, the Lease is valid and in full force and effect.”⁴ The letter editorialized that “most of the review and reporting on Section 37.19 has focused on only a few select words, and reached simplistic ‘black and white’ conclusions regarding the meaning and implications of the clause.”⁵ The letter also noted that the Trump organization expressed a “willingness to enact additional changes to Tenant’s internal operating agreement.” Those further institutional measures include that:

1. “‘Tenant will not make any distributions to DJT Holdings LLC [] or to any other entity in which President Trump has a direct, indirect or beneficial interest.’”
2. “‘Amounts that would have been distributed to DJT Holdings LLC will instead be credited to the unrecovered capital contribution account of DJT Holdings LLC and ‘treated as capital contributions to Tenant.’” and
3. The tenant “‘may only use’” capital contributions “‘for businesses activities and purposes’” meaning that “‘the funds generated by the hotel will not flow to the President through DJT Holdings LLC.’”⁶

Although the letter analyzes the organizational structure and the legal relationships between various entities owned by President Trump, his family, and the Trump Organization, the letter contains no legal analysis or citations.

While GSA officials must work to ensure the lease remains fair to the tenant, the Trump Old Post Office, LLC, they must also work to safeguard and maximize taxpayer dollars. Former GSA Administrator Roth acknowledged to the *Washington Post* that “putting the fate of the President’s 60-year lease in the hands of career staff placed them under unusual pressure that could lead to favorable decisions for Trump.”⁷ Although the GSA contracting officer noted several “further institutional measures instituted” by the Trump Organization designed to mitigate ethics concerns by

keep-his-government-hotel-deal-explains-herself/2017/05/24/c46052fc-3fe5-11e7-9869-bac8b446820a_story.html?hpid=hp_hp-more-top-stories_trumphotel-1040am%3Ahomepage%2Fstory&utm_term=.32fdb9bcd50).

³ Letter from Kevin Terry, Contracting Officer, U.S. General Services Administration to Donald Trump, Jr., Trump Old Post Office, LLC c/o The Trump Organization (Mar. 23, 2017) (www.gsa.gov/portal/getMediaData?mediaId=157798).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

the lease, the letter does not, however, explain how GSA will ensure that the Trump Organization maintains the “institutional measures” it outlined. GSA’s letter also fails to address what steps the agency will take to ensure that its career employees are not impacted by the “unusual pressure” arising from management of a lease in which the President of the United States is a beneficiary.

In order to better understand GSA’s decision process and the steps it will take moving forward, please provide the following information to my office on or before July 6, 2017:

1. All documents related to GSA’s review of the legality or validity of U.S. General Services Administration, Lease Number GS-LS-116-1307 from July 19, 2016 through present;
2. All communications between any GSA official and any representative of the Trump Organization or Trump Old Post Office LLC related to the legality or validity of U.S. General Services Administration, Lease Number GS-LS-116-1307 from July 19, 2016 through present;
3. A description of the internal controls GSA has put in place to monitor the “institutional measures” the Trump organization outlined in its correspondence with GSA and the Old Post Office regarding Lease Number GS-LS-116-1307;
4. A description of any and all guidance provided to GSA employees to ensure that they are not subject to any undue influence or pressure regarding their management of GSA’s Lease Number GS-LS-116-1307; and
5. All communications between GSA officials and the Office of Government Ethics or the U.S. Department of Justice regarding any ethical and conflict of interest issues, including, but not limited to, those raised by 18 U.S.C. § 208 (2015), as they relate to GSA Lease Number GS-LS-116-1307.

If you have any questions regarding this inquiry, please contact Donald Sherman on my staff at Donald_Sherman@hsgac.senate.gov or by phone at (202) 224-2627. Please send any official correspondence relating to this request to Amanda_Trosen@hsgac.senate.gov. Thank you in advance for your prompt attention to this request. I look forward to your response.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman



Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

Mathew M. Sturges, Staff Director

Katherine W. Dedrick, Democratic Staff Director

June 13, 2017

Mr. Timothy Horne
Acting Administrator
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Acting Administrator Horne:

As Ranking Members of the House Committee and Subcommittee with jurisdiction over the General Services Administration (GSA) Public Building Service, we have repeatedly written to you seeking information essential to our constitutional oversight duties. You have failed to respond substantively to multiple requests for information. Your failure to respond is unacceptable.

On January 23, 2017, Ranking Member DeFazio, together with Committee on Oversight and Government Reform Ranking Member Cummings, wrote to you asking you to re-evaluate the Old Post Office lease agreement between GSA and the Trump Old Post Office, LLC. Specifically, we requested that you evaluate the Old Post Office lease agreement in light of the announcement by President-elect Donald Trump on January 11 that he was refusing to divest his ownership interests in the Trump Old Post Office, LLC; and that on January 20, 2017, he took the oath of office to become the 45th President of the United States, creating the untenable position of being both landlord and tenant of the Old Post Office building.

In that same letter, we also asked you to explain the steps that GSA had taken or planned to take to address President Trump's apparent breach of the Old Post Office lease agreement provision barring any elected official from being a lessee, or deriving any benefit from the lease. We asked GSA for copies of any notices sent to Trump Old Post Office, LLC concerning the breach of lease or notices sent in response to the public reports of construction liens filed against the Old Post Office building. In addition, we requested unredacted monthly reports of both the revenues and expenses for the Trump International Hotel and any correspondence that GSA had with Trump Old Post Office, LLC or the Trump transition team regarding the Trump International Hotel.

In a response letter of February 6, 2017, your then-Acting Associate Administrator declined to provide any of the substantive information that we requested. He explicitly stated that GSA would not provide the unredacted revenue and expense reports. Further, he stated that GSA was "monitoring" the issue of mechanics' liens against the Hotel, but provided no other information.

Finally, he provided copies of two letters from GSA to Trump Old Post Office, LLC, yet the text of these letters clearly indicates there exists additional material responsive to our request that was not provided.

On March 23, 2017, the GSA contracting officer for the Old Post Office lease agreement wrote to Donald Trump, Jr., that the Trump Old Post Office, LLC was in full compliance with the lease (the aforementioned deficiencies notwithstanding). Given the intense Congressional interest in this matter, GSA held an in-person briefing that provided answers to some of our questions, though most of our inquiries were not addressed. Specifically, GSA continued to refuse to provide the monthly reports required by the lease agreement, making it impossible to understand the financial health of the Trump International Hotel at the Old Post Office, whether there are Foreign Emoluments clause violations, whether the Trump Old Post Office, LLC is meeting its financial goals, and whether GSA is receiving its share of profits pursuant to the Old Post Office lease agreement.

Of note, at that briefing, the Deputy Commissioner of the Public Buildings Service stated that on January 20, 2017, GSA policy regarding providing information to Congress changed. He stated that GSA will respond to requests by Ranking Members on a discretionary basis only, and that GSA no longer considered an inquiry from a Committee Ranking Member to require a response.

On April 6, 2017, together with Committee on Environment and Public Works Ranking Member Carper and Subcommittee on Transportation and Infrastructure Cardin of the Senate, we wrote to you demanding an explanation of why information requested by Ranking Members has not been provided by GSA. The letter requested an explanation for this partisan change in policy, which officials provided this guidance, and whether the White House or any other federal agency provided instruction on this matter. We have not yet received an answer to this inquiry.

Under the Trump administration, GSA has been nonresponsive to our written inquiries. We regard this as an abdication of your responsibility to run an open and transparent independent agency on behalf of the American people. GSA's mission to provide billions of dollars in real estate services for Federal agencies carries with it the obligation to ensure that taxpayers are getting the best value possible in every lease agreement. This mandate requires your agency to disclose information about its policies and the decisions it makes to us, the elected representatives of the American people.

We strongly urge you to respond to our previous letters by June 19, 2017, and provide the information we require so that our Committee can fulfill its constitutional duty to conduct oversight of GSA.

Mr. Timothy Horne
June 13, 2017
Page 3

Sincerely,



PETER DeFAZIO
Ranking Member



HANK JOHNSON
Ranking Member
Subcommittee on Economic Development,
Public Buildings, and Emergency
Management

cc: The Honorable Bill Shuster
Chairman, Committee on Transportation and Infrastructure

The Honorable Lou Barletta
Chairman, Subcommittee on Economic Development, Public Buildings, and Emergency
Management

JAMES M. INHOFE, OKLAHOMA
SHELLEY MOORE CAPITO, WEST VIRGINIA
JOHN BOOZMAN, ARKANSAS
ROGER WICKER, MISSISSIPPI
DEB FISCHER, NEBRASKA
JERRY MORAN, KANSAS
MIKE ROUNDS, SOUTH DAKOTA
JONI ERNST, IOWA
DAN SULLIVAN, ALASKA
RICHARD SHELBY, ALABAMA

THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
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CORY A. BOOKER, NEW JERSEY
EDWARD J. MARKEY, MASSACHUSETTS
TAMMY DUCKWORTH, ILLINOIS
KAMALA HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
GABRIELLE BATKIN, MINORITY STAFF DIRECTOR

June 6, 2017

Tim Horne
Acting Administrator
General Services Administration
1800 F St. NW
Washington, D.C. 20405

Dear Acting Administrator Horne,

I write to convey my continued concerns about the General Services Administration's (GSA's) determination that the Trump Old Post Office, LLC (Trump OPO) is in compliance with the conflict of interest lease provisions for the Trump International Hotel. This determination appears to lack rigor and transparency.

While I appreciate your April 21, 2017, response to my numerous oversight letters and requests about this matter, the response and the documents GSA provided to me were incomplete and failed to answer each of my questions. Moreover, an April 25, 2017, analysis by Citizens for Responsibility and Ethics in Washington (CREW) of GSA's determination found that "GSA's Contracting Officer failed to provide a sufficient legal or rational basis for why Trump OPO is not violating the Lease, and GSA acted improperly when it failed to exercise its rights to terminate the Lease or take other appropriate legal action against Trump [Old Post Office, LLC]."¹ I also write to reiterate my request for the information I have repeatedly asked for as well as some additional questions that have arisen following my review of CREW's analysis.

Section 37.19 of the Trump OPO lease states:

No member or delegate to Congress, or elected official of the Government of the United States or the Government of the District of Columbia, shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom.

Over the past five months, I have tried repeatedly to obtain information about whether President Trump, who has not fully divested himself of his Trump family business interests including assets related to Trump OPO, is in compliance with this Trump OPO lease provision. I sent oversight letters to GSA on this matter on December 1, 2016², January 13, 2017³, and January 31, 2017⁴. My staff also received a December 14, 2016, briefing at which GSA representatives promised to provide additional information in writing about the contract and

¹ <http://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/04/25171058/Senate-EPW-GSA-Old-Post-Office-lease-4-25-17-1.pdf>

² https://www.epw.senate.gov/public/_cache/files/f71457c9-30f6-4436-8c01-b736e443b8be/combined-letters.pdf

³ https://www.epw.senate.gov/public/_cache/files/f71457c9-30f6-4436-8c01-b736e443b8be/combined-letters.pdf

⁴ https://www.epw.senate.gov/public/_cache/files/f71457c9-30f6-4436-8c01-b736e443b8be/combined-letters.pdf

GSA's communications regarding the lease agreement with Trump OPO. GSA's January 5, 2017, written response⁵ following this briefing did not include all of the requested information.

On March 3rd, 2017, after numerous attempts by my staff to obtain information from GSA on this matter, GSA staff notified my office that GSA had deemed the requested information to be privileged and confidential, without providing any rationale or basis for that determination. GSA subsequently publicly released a number of responsive documents on March 23, 2017, which asserted that Trump OPO was in compliance with the lease.

On March 31, 2017, GSA provided a bipartisan staff briefing at which my staff inquired about the status of outstanding GSA requests and sought additional information. GSA staff responded that on January 20, 2017, the Trump Administration changed GSA's long-standing practice of providing information requested by minority Members of Congress. Instead, the agency would no longer respond to requests from Ranking Members, including me, in my capacity as Ranking Member of the Environment and Public Works Committee – one of the Senate Committees with jurisdiction over GSA. Members of both parties have rejected this troubling position.⁶

On April 21, 2017, GSA provided documents it claimed were “responsive” to my January 31, 2017, letter. Upon receiving this document production, I was hopeful that GSA had abandoned its unwise new practice of not responding to minority Members' requests. Unfortunately, a thorough review of the materials by my staff revealed that the documents are largely unresponsive. The documents omit several categories of requested information, and lack any of the relevant email attachments pertaining to the questions from my previous inquiries. Rather than focusing on my questions surrounding Trump OPO lease compliance, more than 90 percent of the nearly 5,000 pages of emails and documents provided by GSA relate to unrelated issues such as: the permissible signage at Trump Hotel, the location of a Starbucks inside the Hotel, and the testing of Hotel fire alarms. I again renew my requests for complete responses to my December 1, 2016, January 13, 2017, and January 31, 2017, letters, and to the requests from the bipartisan staff briefing on March 31, 2017 – all of which are enclosed with this letter. Moreover, it is my expectation that GSA will provide me with all documents that are responsive to my requests that have been obtained or written by GSA. Additionally, I request quarterly updates with any new documents that are responsive to my requests until further notice.

In addition to my own outstanding questions and document requests regarding Trump OPO lease compliance, independent entities have also begun to question compliance as well. On April 25, 2017, CREW released its own analysis of GSA's determination that Trump OPO is in full compliance with the conflicts of interest provision of the lease. Specifically, CREW found that “GSA's Contracting Officer failed to provide a sufficient legal or rational basis for why Trump OPO is not violating the Lease, and GSA acted improperly when it failed to exercise its rights to terminate the Lease or take other appropriate legal action against Trump [Old Post Office, LLC].”⁷

⁵ https://www.epw.senate.gov/public/_cache/files/f71457c9-30f6-4436-8c01-b736e443b8be/combined-letters.pdf

⁶ See for example, letter from Judiciary Committee Ranking Member Charles E. Grassley to Julius Genachowski, Chairman, FEDERAL COMMUNICATIONS COMMISSION (Sep. 8, 2011), *available at* <https://www.grassley.senate.gov/sites/default/files/about/upload/2011-09-08-CEG-to-FCC-LightSquared3.pdf>.

⁷ <http://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/04/25171058/Senate-EPW-GSA-Old-Post-Office-lease-4-25-17-1.pdf>

CREW's analysis raises additional questions regarding the manner in which President Trump has organized his continued financial interests in Trump OPO. In its determination that Trump OPO was in compliance with the GSA lease, GSA concluded that while the President is in office, Trump OPO will not make any distributions to DJT Holdings LLC or to any other entity in which President Trump has a direct, indirect or beneficial interest. Instead, any Trump Hotel proceeds that would have been expected to be distributed to DJT Holdings LLC would be used to further improve Trump Hotel, rather than being used to directly benefit the President. In other words, GSA determined that the President would not directly benefit from Trump OPO while he is in office and thus would comply with the lease provision that prohibits elected officials from deriving benefit from the lease. In addition to reiterating my request for answers to my questions and documentation regarding GSA's determination that Trump OPO was in compliance with the GSA lease, I also wish to better understand the specific steps that GSA is taking to address the issues raised by CREW, and ask that you please provide the following information:

1. The CREW analysis noted that while President Trump resigned from Trump OPO and Trump Old Post Office Member Corp. on January 19, 2017, "he retained his interest in Trump OPO through The Donald J. Trump Revocable Trust (Trust)" which "retains a 77.5% interest in Trump OPO through certain holding companies." CREW additionally noted that public documents and President Trump's attorney state that the President can obtain funds from his Trust at any time upon request. Please explain – and fully document, including through the provision of legal or financial Trust documents, and other documents (including but not limited to emails, letters, telephone logs, memos, and presentations) – GSA's efforts to ensure that funds from Trump OPO cannot be withdrawn by the President from his Trust.
2. Did GSA verify, through an examination of the Trust or any amendments thereto, that the President's seemingly unlimited ability to withdraw funds from his Trust does not legally extend to funds obtained from Trump OPO or any of its holding companies? If so, please provide me with documents that establish such verification. If not, why not, and does GSA stand by its determination that Trump OPO is in full compliance with the conflict of interest provision of the lease?
3. The CREW analysis also notes that any improvements made to Trump Hotel would enhance its value, attract more hotel guests, and further increase the "the value of other Trump Organization properties and the amount the Trump Organization can charge for its licensing, management, and other services ("the Trump brand")," which in turn enriches President Trump by virtue of his financial interest in "hundreds of companies that comprise the Trump Organization." Does GSA dispute that this potential financial benefit to President Trump exists? If so, please explain the basis upon which GSA disputes the existence of this benefit (and provide any supporting documentation). If not, does GSA stand by its determination that Trump OPO is in full compliance with the conflict of interest provision of the lease?
4. The CREW analysis also notes that funds from Trump OPO can be used for any "business activities and purposes," which could include the purchase of wine from Trump Vineyards Estates LLC, or coffee or other food products that are owned or licensed by Trump family businesses (such as Trump Mark Fine Foods LLC). President Trump would be expected to benefit financially from such purchases as well. Does GSA dispute

that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?

5. The CREW analysis also notes that if funds from the DJT Holdings capital account are used to pay down the Trump OPO loan from Deutsche Bank, this would reduce the chances of default on the loan, and could also shield the President from personal liability for this loan if he guaranteed it with his personal assets. Does GSA disagree that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response, including through the provision of the Deutsche Bank loan documentation and GSA's analysis thereof)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?
6. The CREW analysis also notes that any remaining funds in the DJT Holdings capital account at the end of the President's tenure from Trump OPO will be returned to the President's Trust once he leaves office, and these funds clearly benefit the President. Does GSA disagree that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?
7. The CREW analysis also notes that the President regularly dines at the Hotel restaurant, and several Cabinet officials also stay or dine there. It is unclear whether the President pays for his meals when he eats there. Additionally, the possibility of eating at a restaurant that is owned and operated by the President while the President is also eating there can reasonably be expected to attract additional restaurant guests. Does GSA disagree that this potential financial benefit of Trump OPO to President Trump exists? If so, why (and please fully document your response)? If not, does GSA stand by its determination that it is not possible for the President to benefit from Trump Hotel?

Thank you very much for your prompt attention to this important matter. If you or members of your staff have any questions about this request, please feel free to ask your staff to contact John Kane and Michal Freedhoff on the Environment and Public Works Committee staff at 202-224-8832. I request a response to all questions and documents contained in and attached to this letter no later than June 27, 2017.

With best personal regards, I am,

Sincerely yours,



Tom Carper
Ranking Member

Attachment: List of Outstanding Requests for Information

1. All instances during the Obama Administration (January 20, 2009, through January 20, 2017) where political appointees from the GSA were involved in contractual disputes.
2. All instances in which an "outlease" contract between the GSA and other entities managing GSA property has been breached on the grounds of an elected official being party to the lease.
3. All communications between GSA officials and Trump Old Post Office, LLC.
4. All communications between the GSA and the Agency Review Team, and between the Agency Review Team and the Trump Transition Team, since November 9, 2016.
5. The list of officers of the Trump Old Post Office, LLC.
6. The list of contracting office representatives and the contracting officer assigned to the lease.
7. In addition, on January 11, 2017, in response to President Trump's press conference, GSA announced it was "seeking additional information that explains and describes any new organizational structure as it applies to the Old Post Office Lease."¹ We respectfully request that you provide us with any and all communications related to this issue between the GSA and the Trump Administration.

Requests for Information from the Briefing:

1. The definition of a "benefit" – including but not limited to any memoranda defining the term – used in the contracting determination related to the Trump Old Post Office lease.
2. Issues assessed by the contracting officer during the determination of compliance with the Trump OPO lease
3. Did GSA consult the Office of Government Ethics in the determination of compliance with the Trump OPO lease?
4. Summary vs the full trust: Why did GSA only review the summary of the trust rather than the full trust? What is the difference between the two documents?
5. List of participants in all meetings regarding the lease
6. All communications between Trump OPO-GSA (as requested in question 3 of the January 31st letter)
7. All communications between GSA Office of General Counsel and the contracting officer regarding the lease.
8. Previous drafts of the contracting officer's letter
9. Legal basis for not responding to anything but a Chairman's request
10. GSA's policy for responding to congressional requests
11. All congressional correspondence on Trump Hotel lease

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

May 19, 2017

The Honorable Timothy O. Horne
Acting Administrator
General Services Administration
1800 F Street, NW
Washington, DC 20405

Dear Administrator Horne:

The mission of the Committee on Homeland Security and Governmental Affairs is: "To enhance the economic and national security of America and promote more efficient, effective, and accountable government."¹ The Office of Management and Budget (OMB) reported a total of \$896 billion in unobligated funds across the federal government as of the end of fiscal year 2015,² including in some accounts that have been labelled "slush funds."³ We respectfully request your assistance in providing a basic accounting of the unobligated funds held by your agency.

According to OMB, your agency had \$6.2 billion in unobligated funds as of the end of fiscal year 2015. We ask that you please provide the following information:

1. Of the \$6.2 billion in unobligated funds held by your agency as of the end of fiscal year 2015, please provide:
 - a. The amount of unobligated funds in unexpired accounts; and
 - b. The amount of unobligated funds in expired accounts.
2. For the unobligated funds in unexpired accounts, please provide the following information as of the end of quarter 2 of fiscal year 2017:
 - a. The amount of funds spent;
 - b. The amount of funds obligated; and
 - c. The amount of funds that remains unobligated.

¹ See *Nomination of General John F. Kelly, USMC (Ret.), to be Secretary, U.S. Department of Homeland Security: Hearing before the S. Comm. on Homeland Security and Governmental Affairs*, 115th Cong. (2017).

² Office of Mgmt. and Budget, *Balances of Budget Authority: Budget of The U.S. Government 22 (2017)* available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/budget/fy2017/assets/balances.pdf>.

³ For example, the Department of Defense's Counterterrorism Partnerships Fund was called a slush fund in 2014. See, e.g., Kristina Wong, *Lawmakers Leery of Counterterrorism Fund*, The Hill, July 20, 2014; Office of Mgmt. and Budget, *FY 2016 4th Quarter Unobligated Balances in Unexpired Accounts for Executive Branch Agencies Reported on SF 133s (2016)*, available at <https://max.omb.gov/maxportal/document/SF133/Budget/attachments/984121454/1156418183.pdf>.

3. For the unobligated funds in expired accounts, please provide the following information as of the end of quarter 2 of fiscal year 2017:
 - a. The amount of funds spent;
 - b. The amount of funds obligated; and
 - c. The amount of funds that remains unobligated.

Please provide this information as soon as possible but no later than 5:00 p.m. on June 2, 2017.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”⁴ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine “the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices”⁵

If you have any questions about this request, please contact Jerry Markon on Chairman Johnson’s staff at (202) 224-4751 and Sarah Garcia on Ranking Member McCaskill’s staff at (202) 224-2627. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman



Claire McCaskill
Ranking Member

⁴ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

⁵ S. Res. 62 § 12, 115th Cong. (2015).

RON JOHNSON, WISCONSIN, CHAIRMAN

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United States Senate

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General Services Administration
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Washington, DC 20405

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Sincerely,



Ron Johnson
Chairman



Claire McCaskill
Ranking Member

⁴ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

⁵ S. Res. 62 § 12, 115th Cong. (2015).

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
<http://oversight.house.gov>

June 5, 2017

Timothy O. Horne
Acting Administrator
General Services Administration
1800 F Street, NW
Washington, D.C. 20405

Dear Acting Administrator Horne:

We are writing to renew a request we sent to the General Services Administration (GSA) on February 8, 2017, pursuant to the statutory “Seven Member Rule,” to obtain complete, unredacted copies of documents related to the administration of the Old Post Office lease agreement with President Donald Trump’s company.

Background on Statutory Seven Member Rule

Last week, the Trump Administration released an opinion issued by the Office of Legal Counsel on May 1, 2017, arguing that agencies and departments could ignore requests for documents and other information from Members of Congress other than Republican Committee Chairmen. The opinion asserted:

[T]he constitutional authority to conduct oversight—that is, the authority to make official inquiries into and to conduct investigations of executive branch programs and activities—may be exercised only by each house of Congress or, under existing delegations, by committee and subcommittees (or their chairmen). Individual members of Congress, including ranking minority members, do not have the authority to conduct oversight in the absence of a specific delegation by a full house, committee, or subcommittee.¹

This opinion is flawed in many ways, but even taking it at face value, GSA must comply with requests submitted under the statutory Seven Member Rule. The Seven Member Rule is unique authority that was passed by both the House and Senate and signed by the President in 1928, explicitly delegating authority for any seven members of the Committee on Oversight and Government Reform to require any executive agency to “submit any information requested of it

¹ Office of Legal Counsel, Department of Justice, *Authority of Individual Members of Congress to Conduct Oversight of the Executive Branch* (May 1, 2017) (online at www.justice.gov/olc/file/966326/download).

relating to any matter within the jurisdiction of the committee.”²

Under House Rule X, the Committee has jurisdiction over “Government management and accounting measures generally,” as well as the “Overall economy, efficiency, and management of government operations and activities, including Federal procurement.”³ In addition, as the primary investigative body in the House, the Committee also has the broad authority “at any time” to “conduct investigations” of “any matter.”⁴

For example, in *Henry A. Waxman v. Donald L. Evans*, United States District Court Judge Lourdes G. Baird granted 16 members of the Committee summary judgment in a case brought against the Department of Commerce to enforce the Seven Member Rule. The court ruled that the Department was required to provide adjusted data from the 2000 census.⁵

Compliance with Seven Member Rule Under Obama Administration

During the Obama Administration, GSA explicitly recognized and complied with a request for documents under the statutory Seven Member Rule regarding the Old Post Office lease agreement. On December 22, 2016, 11 members of the Committee sent GSA a request for documents pursuant to the Seven Member Rule.⁶ In response, GSA produced documents on January 3, 2017, writing:

Thank you for your letter dated December 22, 2016, from 11 members of the House Committee on Oversight and Government Reform requesting certain records related to the Old Post Office pursuant to 5 U.S.C. § 2954 (the “Seven Member Rule”). ... Consistent with the Seven Member Rule and judicial and Department of Justice, Office of Legal Counsel opinions (see e.g., 6 Op. O.L.C. 632 (1982) and 28 Op. O.L.C. 79 (2004)), enclosed please find attachments responsive to your request.⁷

² 5 U.S.C. § 2954 (incorporating and amending 45 Stat. 996 (1928)). The statutory language refers to the “Committee on Government Operations.” The Committee was renamed several times since then, and in the 110th Congress, it was renamed the Committee on Oversight and Government Reform. References in statute to the “Committee on Government Operations” are treated as referring to the Committee on Oversight and Government Reform.

³ House rule X, clause 1(n).

⁴ House rule X, clause 4(c)(2).

⁵ *Henry A. Waxman v. Donald L. Evans*, CV 01-4530 LGB (AJWx), 2002 U.S. Dist. LEXIS 25975, at *33 (C.D. Cal. Jan. 18, 2002).

⁶ Letter from Ranking Member Elijah E. Cummings, et al., House Committee on Oversight and Government Reform, to Denise Turner Roth, Administrator, General Services Administration (Dec. 22, 2016) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-12-22.EEC%20et%20al%20to%20Roth%20re%20Trump%20International%20Hotel.pdf>).

⁷ Letter from Lisa A. Austin, Associate Administrator, General Services Administration, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Jan. 3, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/GSA%20Response%20to%20Seven%20Member%20Rule%2001-03-17.pdf>).

GSA produced a wide range of documents—in unredacted form—including an amendment to the lease, a 2017 budget estimate, exhibits to the lease, and monthly income statements for the Trump International Hotel.

Similarly, during the Obama Administration, the State Department also complied with a request submitted by Members of our Committee under the Seven Member Rule. On September 2, 2016, 11 Members of the Committee sent a letter pursuant to the Seven Member Rule, requesting an unredacted copy of an email exchange between former Secretary of State Colin Powell and former Secretary of State Hillary Clinton.⁸ On September 7, 2017, the State Department produced the full, unredacted email exchange in response to the request.⁹

Failure to Comply with Seven Member Rule Under Trump Administration

During the Trump Administration, GSA has recognized the existence of the Seven Member Rule, but has failed to comply with it to date.

On January 23, 2017, Ranking Members Cummings, DeFazio, Connolly, and Carson sent a letter requesting documents relating to the Old Post Office lease.¹⁰ In declining to provide these documents to the Ranking Members alone, GSA sent a response on February 6, 2017, acknowledging the authority of Committee Members to obtain information under the Seven Member Rule. Acting Associate Administrator Saul Japson wrote:

GSA is unable to provide the unredacted versions of the monthly reports describing revenue and expenses. Should the U.S. House of Representatives Committee on Oversight and Government Reform or any seven members thereof submit a request pursuant to 5 U.S.C. § 2954, GSA will review any such request.¹¹

⁸ Letter from Ranking Member Elijah E. Cummings, et al., House Committee on Oversight and Government Reform, to Secretary of State John F. Kerry, Department of State (Sept. 2, 2016) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-09-02.%20OGR%20dem%20members%20to%20Kerry.pdf>).

⁹ Letter from Julia Frifield, Assistant Secretary for Legislative Affairs, Department of State, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Sept. 7, 2016) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/State%20to%20EEC%2009-07-16.pdf>).

¹⁰ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, Ranking Member Peter A. DeFazio, House Committee on Transportation and Infrastructure, Rep. Gerald Connolly, and Rep. André Carson, to Timothy Horne, Acting Administrator, General Services Administration (Jan. 23, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-01-23.EEC%2C%20DeFazio%2C%20Connolly%2C%20%26%20Carson%20to%20GSA%20OPO%20Letter%20re.%20Trump.pdf>).

¹¹ Letter from Acting Associate Administrator Saul Japson, General Services Administration, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Feb. 6, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/GSA%20letter.pdf>).

Following this suggestion, two days later, on February 8, 2017, eight members of the Committee sent a letter to GSA requesting these documents pursuant to the statutory Seven Member Rule.¹² Over the past four months, our staffs have inquired repeatedly about the status of this request, but we have received no further response from GSA.

Instead, you testified on May 24, 2017, before the House Committee on Appropriations that the Trump Administration's new policy—to reject all oversight requests from Democrats unless they are also joined by Republican Committee Chairmen—could preclude the production of documents under the Seven Member Rule. In response to questions from Rep. Matt Cartwright, who is also a Member of the Oversight Committee, you testified: “the Administration has instituted a new policy that matters of oversight need to be requested by the Committee chair.” You also testified that you would respond to Democratic requests by providing only public information with other information redacted:

However, if it's an oversight matter, not requested by the Committee chair, we'll respond with a letter saying that—you know, if it's information that we need to be redacted, then we will redact the information—we will provide public information. But for matters of oversight, the request needs to come from the Committee chair.¹³

Request for Documents Under Statutory Seven Member Rule

The Seven Member Rule is not a regulation or guideline, but a statute that was passed by both houses of Congress and signed by the President. Although you may wish to limit oversight from Democratic Members of Congress through a misguided policy that responds only to Republican Chairmen, compliance with federal law is not an optional exercise that may be overridden by a new Trump Administration policy.

Your actions to date are not only a reversal of previous Executive Branch policy and a direct impediment to authorized congressional oversight, but a violation of the statute passed by Congress creating the Seven Member Rule and explicitly delegating this authority to Members of the Oversight Committee. For these reasons, we request, pursuant to the Seven Member Rule, that you produce the following documents—in unredacted form—by June 23, 2017:

1. all monthly reports submitted to GSA since November 2016 by Trump Old Post Office LLC describing revenues and expenses;
2. all correspondence and documents from Trump Old Post Office LLC relating to liens or any action to resolve liens;

¹² Letter from Ranking Member Elijah E. Cummings, et al., House Committee on Oversight and Government Reform, to Saul Japson, Acting Associate Administrator, General Services Administration (Feb. 8, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-02-08.EEC%20et%20al%20to%20Japson-GSA%20re%20Trump%20International%20Hotel.pdf>).

¹³ House Committee on Appropriations, Subcommittee on Financial Services and General Government, *Hearing on the General Services Administration*, 115th Cong. (May 24, 2017).

3. all correspondence with representatives of Trump Old Post Office LLC, the Trump transition team, or the Trump Administration regarding compliance with the lease before or after the presidential election, Section 37.19 of the lease, the monthly financial reports, the structure of the trust created to address Section 37.19 of the lease, or any other matters above;
4. all correspondence and documents relating to funds received from any foreign country, foreign entity, or foreign source;
5. correspondence from Adam L. Rosen on December 16, 2016, and December 29, 2016, to GSA, referenced in the attachment to GSA's February 6, 2017, letter to Members of this Committee;
6. all correspondence and documents relating to representatives of the tenant in its interactions with GSA;
7. all documents containing legal interpretations of Section 37.19 of the lease created within GSA or received from the tenant;
8. any legal opinion relied upon by GSA in making a determination regarding the President's compliance with Section 37.19; and
9. all drafts and edits of Kevin Terry's letter on March 23, 2017, including who authored the drafts or edits.

Thank you for your prompt cooperation with this matter.

Sincerely,

Elijah E. Cummings

Wesley B. Denning

MARK DE

Brenda Laurence

Jamie Raskin

Stacey E. Plaskett

Matthew A. Cartwright

Rubin Kelly

Bonnie Watson-Coleman

Eleanor H. Norton

Ann E. Quinn

Cordye B. Malore

Wm. Lucy Gray

John
Raja K. Kulkarni

Steph J. Lynch

Peter Welch

John P. Luchini

cc: The Honorable Jason Chaffetz, Chairman